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TIMOTHY B. FLEMING  
OF COUNSEL

February 7, 2020

Via ECF

The Honorable Sarah Netburn  
United States Magistrate Judge  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
40 Foley Square  
New York, New York 10007

Re: *In Re Terrorist Attacks on September 11, 2001*, 1:03-md-01570 (GBD)(SN)  
*Ray, et al. v. Islamic Republic of Iran, et al.*, No. 1:19-cv-00012 (GBD)(SN)  
Filing Affidavit of Service and Application for Default on the MDL Docket

Dear Magistrate Judge Netburn:

The undersigned is one of the attorneys representing the plaintiffs in *Ray, et al. v. Islamic Republic of Iran*, No. 1:19-cv-00012 (GBD)(SN) in the above-referenced MDL proceeding. The defendants in the *Ray* case are the Islamic Republic of Iran (“Iran”) and fifteen of its political subdivisions, agencies and instrumentalities.

We write today to request guidance on a difficult filing problem in the MDL.

As we have indicated previously, the Amended Summons and Second Amended Complaint were served on, and rejected by, Iran and the seven political subdivision defendants on December 4, 2019 via diplomatic service pursuant to 28 U.S.C. §1608(a)(4) of the Foreign Sovereign Immunities Act. We have prepared a detailed Affidavit of Service, which the undersigned has filed on the *Ray* docket. ***See Ray Doc. No. 204, and Ex. 204-1 through 204-8.*** We also attempted to file it on the MDL docket, but that is where we encountered a problem.

We had been advised by the Clerk’s office to file on both the *Ray* docket and the MDL docket. However, when we tried to file on the MDL docket, we found that there were no entries at all for the *Ray* Complaint to which we could tie the service. In other words, after loading all the documents, and going through the various screens, the *Ray* Second Amended Complaint does not appear as an option on the screen on which we are supposed to select the document that was served and to enter the date on which it was served on each of the *Ray* Defendants. Indeed, until quite recently, even the names of the *Ray* Plaintiffs did not appear on the MDL docket, which the undersigned was told was simply due to a huge backlog in the Clerk’s office. Those names are now entered, but the prior filings, including the Second Amended Complaint, are not. We presume that this, too, is due to the great backlog in the Clerk’s office, which is undoubtedly besieged with filings over the past couple of months.

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*Ray, et al. v. Islamic Republic of Iran*, No. 1:19-cv-00012 (GBD)(SN)

Accordingly, unless we can proceed with filings on the *Ray* docket alone, we will be stuck for an undetermined time before we can complete the filings necessary to obtain a Clerk's Certificate of Default in *Ray*. We do wish to proceed as rapidly as possible in order to hopefully obtain a Default Judgment in time for the USVSST Fund filing deadline. The required diplomatic service step has been completed, and my Affidavit of Service, with exhibits, is on the *Ray* docket. Thus, it would appear that the way to deal with this situation is simply to allow Plaintiffs to file only on the *Ray* docket for now, and allow the Clerk to carry over the filings to the MDL docket when things settle down to a more manageable pace.

The Orders and Judgments desk within the Clerk's office advised us to seek the Court's advice on this subject. The suggestion above appeared to be fine with them, provided the Court so directs.

Accordingly, we seek the Court's permission for the *Ray* Plaintiffs to proceed with filings on the *Ray* docket alone, for the time being, in regard to matters pertaining to obtaining a default judgment in that case.

We thank the Court for its consideration of this request.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Timothy B. Fleming". The signature is fluid and cursive, with a large, stylized "F" and "M".

Timothy B. Fleming  
*One of the Attorneys for the Ray Plaintiffs*

cc: All MDL counsel (via ECF)